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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/963,244 | 09/26/2001 | Mark Alan Schultz | PU010200 | 8587 |

7590 01/07/2005

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| EXAMINER |
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HINDI, NABIL Z

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| ART UNIT | PAPER NUMBER |
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2655

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/963,244

Applicant(s)

SCHULTZ ET AL.

Examiner

NABIL Z HINDI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

In response to applicant's amendment dated Nov 08, 2004. The following action is taken:

The claims are rejected for the same reasons set forth in the previous office action mailed May 13, 2004 repeated herein for application's convenience.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, and 12-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohara et al (6097683).

Each of the independent claims is drawn to an alternative limitation "one or more of".

Thus only one of the limitations is to be shown in order to meet the claimed invention.

The independent claim merely read on reading the medium and if an error has occurred than the error location is stored in a primary or secondary defective lists. Such limitation is inherently present in every optical disk media having a PDL and SDL storing the location of the defective segments on the disk. The claims also read on re-recording the data on a different location if an error has occurred based on the well-established "skipping method" or the "replacement method". The reference shows an optical disk defective management apparatus comprising an optical head for reading the data on an optical medium where data is recorded, taking a corrective action if defective data is

encountered by verifying the recorded data be re-recording the data on a different area of the disk column 15 lines 35-40.

With respect to the limitations of the dependent claims. See fig 8 steps ST7-ST10 showing the "threshold" within a predetermined range.

Applicant's arguments filed November 08, 2004 have been fully considered but they are not persuasive. Applicant's amendment broadened the claimed invention by deleting some of the original claimed limitations. Applicant's arguments are centered around the prior art not showing or teaching "modifying a selectively examining step". The limitation merely read on any step taken after the error is detected on a disk such as registering the error in a PDL (primary defective list) or SDL (secondary defective list) or moving the head to a different track...etc. The argument drawn to "re-read a number of times", "the speed of the disk can be reduced"...etc is not supported nor claimed in the claimed invention. The reference is drawn to modifying the selectively examining step by re-recording the data in a different location meeting the claimed invention.

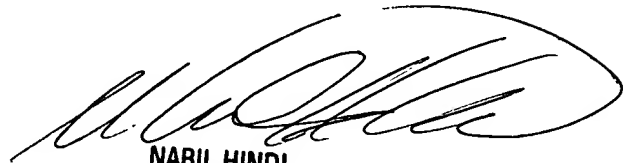
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.



NABIL HINDI
PRIMARY EXAMINER
GROUP 2655